



Task Force on Court Facilities
455 Golden Gate Avenue, San Francisco, CA 94102-3660

Meeting Report
December 6 & 7, 2000
Radisson Hotel
San Bernardino, CA

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| <p>ATTENDEES:</p> <p>TASK FORCE MEMBERS:</p> <p>PRESENT: Hon. Daniel J. Kremer, Chair Mr. Greg Abel Mr. Wylie Aitken Hon. Joan B. Bechtel Ms. Yvonne Campos Mr. John Clarke Mr. Mike Courtney Hon. Hector De La Torre Sheriff Robert T. Doyle Hon. Jerry Eaves Hon. Gary Freeman Mr. David Janssen Hon. Michael Nail Hon. Charles V. Smith Mr. Anthony Tyrrell Hon. Diane Elan Wick</p> <p>ABSENT: Mr. Fred Klass Hon. Wayne Peterson</p> <p>TASK FORCE STAFF: Mr. Robert Lloyd, Project Director, Facilities Unit Mr. Robert Emerson, Project Manager, Senior Facilities Planner Ms. Patricia Bonderud, AIA, CSI Facilities Planner</p> | <p>PRESENTERS: Mr. Jay Smith, Daniel, Mann, Johnson, & Mendenhall Mr. Dan Smith, DSA/Vitetta Mr. Alton Chow, Daniel, Mann, Johnson, & Mendenhall Ms. Tracy Barrow, AeCOM Mr. Robert Lloyd, Administrative Office of the Courts</p> <p>GUESTS: Mr. John H. Abbott, County of Orange Ms. Beverly Bickel, OMNI Group Mr. Bruce Doenges, Superior Court, County of Ventura Mr. Joseph Fallin, Superior Court, County of Los Angeles Mr. Tim Fedorchak, County of Stanislaus Ms. Tressa Kentner, Superior Court, County of San Bernardino Ms. Catherine Knighten, County of Orange Mr. Rubin Lopez, California State Association of Counties Ms. Sally Lukenbill, Department of Finance Mr. Nick Marinovich, County of San Diego Mr. Jack Miller, County of San Diego Ms. Nghia Nguyen, County of Orange Ms. Eraina Ortega, Legislative Analyst's Office Mr. Garry Raley, Superior Court, County of Riverside Ms. Wendy Sellnow, Superior Court, County of San Bernardino Mr. John Siden, County of Yolo Mr. John Van Whervin, Superior Court, County of Los Angeles</p> |
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I. OPENING REMARKS – Justice Daniel Kremer

- A) Justice Kremer opened the task force meeting at 10:05 a.m. and reviewed the meeting agenda.
- B) The task force reviewed and unanimously approved the meeting reports from the October 18 & 19 meeting in Emeryville (Meeting # 13) and the November 8 meeting in Los Angeles (Meeting #14).

II. PHASE 4 PROGRESS REPORT – Mr. Jay Smith

- A) Mr. Jay Smith presented a progress report on the Phase 4 evaluation work noting the following:
 - 1) The county evaluation plans have not been completed for two counties (Alameda and San Mateo) and are now in progress.
 - a) The Alameda County report is expected to be presented next week.
 - b) The presentation to San Mateo County is in the process of being scheduled.
 - c) The presentation to Santa Barbara County is also in the process of being scheduled although the report has already been sent to the county and the courts for comment.
 - 2) Of the 56 county evaluations that have been issued, comments from 30 courts and 26 counties have been received. A letter has been sent to all non-respondents asking for a response by December 8 so that the comments may be incorporated into the revised evaluation reports during the next few weeks.
 - 3) Mr. Smith described the key points regarding how the comments are being addressed:
 - a) Response letters to the courts and the counties will address every point in every letter.
 - b) The database will be corrected for factual errors pointed out in the comment letters.
 - c) Revised evaluation reports will be issued over the next few weeks.
 - 4) Progress on survey and evaluation of the appellate courts was presented as follows:
 - a) The surveys of all facilities have been completed and the resulting data has been entered into the database.
 - b) Planning options for the appellate courts still need to be developed and the final report will be finished immediately after the county reports are completed.

III. SPACE MITIGATION COST ANALYSIS – Mr. Dan Smith

- A) Mr. Dan Smith reviewed the cost analysis of fourteen topics recommended by the Space Mitigation Working Group as documented in the draft Space Mitigation Cost Analysis report distributed to the task force. Mr. Smith reminded the group that, in general, space savings, not operation changes, were addressed with respect to space requirements for future needs, not existing space.
- B) Task force members and Mr. Smith commented on the cost analysis of the following specific topics recommended by the Space Mitigation Working Group:

1) I.A.1 – Video Conferencing for Arraignments and Other Pre-trial Proceedings

a) Mr. Abel noted that, in addition to the space savings, operational savings realized from implementation of this recommendation could be significant.

2) I.B.1 – Electronic Information Systems – Lexis/Westlaw/Westmate

a) Mr. Smith noted that this topic also will provide operational savings in addition to space savings.

3) I.B.3 – Electronic Information Services – Interactive Voice Response System

a) Mr. Abel asked whether information access over the Internet was included in this recommendation. He noted that the Sonoma County courts have a phone response system and will be adding an Internet-accessible information system as well. Ms. Campos asked whether interactive kiosks were also included. Mr. Smith said that the analysis essentially included cost savings from all types of electronic, public-access information systems.

b) Mr. Abel asked that a few sentences be added to the report to include both Internet access and interactive kiosks.

4) I.B.4 – Electronic Information Services – Records Storage and Court Reporter Notes

a) Mr. Smith explained that this topic focuses on larger counties and that, in addition to the future needs, it also covers existing conditions. He also noted that the cost of scanning equipment will affect the savings, but has not been included here. Justice Kremer asked that an estimate of the costs be included.

b) Justice Kremer noted that records (other than criminal) move out of the retention system over time as the specified period for their retention expires. Mr. Smith responded that the analysis is based on this process and essentially accounts for the space recaptured as paper-based records expire and newer records are kept in electronic form.

c) Ms. Campos questioned whether there was truly a reduction in records. Mr. Abel noted that there was not a change in retention requirements rather only a change in method of retention. Justice Kremer noted that legislative changes may be required to allow electronic storage of records.

5) I.C.2 – Automation of Administrative Services – Purchasing

a) Justice Kremer commented that these services could also be contracted from the counties.

b) Judge Wick noted that alternatively the services could be obtained from office supply wholesalers.

6) I.E Misdemeanor Arraignments for Counsel Electronically

a) The review and analysis of this topic is incomplete and will be developed for review and presentation at the meeting in January.

7) I.F – Consolidation of an Individual's Various Cases Into One Court

a) Mr. Smith noted his view that the savings from this topic will be in operations rather than in space utilized. His review and analysis of this topic is incomplete and will be developed for presentation and review at the meeting in January.

8) II.A.1 – Courtroom Utilization – Increased Ratio of Judges to Courtrooms

a) Mr. Abel commented that he foresees operational problems associated with the implementation of this recommendation that would result in increased costs. He noted his view that the recommendation does not provide for pro tems (who are not full time employees). Justice Kremer noted that calendaring would become more complex.

b) Mr. Aitken suggested that there are studies regarding the use of non-assigned courtrooms that may provide relevant information on the experiences of other courts.

c) Mr. Clarke commented that smaller courts need a one-to-one ratio and larger as well as smaller courts may have problems implementing this recommendation. He further noted that courtrooms are work spaces for court personnel other than judges; specifically court reporters and clerks. Focussing only on judges overlooks the point that the courtroom serves as a workspace for many people.

d) Mr. Abel noted his agreement with Mr. Clarke's comment stating that in Sonoma County the clerks' primary workspace is often in the courtroom.

e) Justice Kremer asked if anyone was in favor of recommending the three-to-four ratio and no one responded affirmatively.

9) II.A.2 – Courtroom Utilization – Specialty Courtrooms

a) Justice Kremer noted that specific space savings associated with this recommendation could be realized through a review of court caseload when planning a new court building.

10) II.B – Night Courts – Small Claims, Traffic, Selected Family, Pro Per, ADR, etc.

a) Justice Kremer noted that there could be additional operational costs due to premium pay for court personnel and security staff.

b) Mr. Clarke commented that Los Angeles' experimentation with night court, that is, hours extended to 6:00 or 6:30 p. m., was not particularly well received by the public. He suggested that if night courts are designed into new court buildings, provisions for direct access to them and limited access to the balance of the building be provided. This would also facilitate after-hours payments and eliminate the need for security for the entire courthouse after hours.

c) Mr. Abel noted that Sonoma County successfully holds traffic court in the evening twice a month.

C) At the conclusion of the discussion a motion was made that court planners should consider the fourteen topics recommended, except for the reduced courtroom to judge ratio, and that qualitative statements of the operational impacts of the recommendations should be included in the cost analysis report. The motion passed unanimously.

IV. PUBLIC COMMENT PERIOD

A) There were no comments from the public.

V. REVIEW OF THE SAN BERNADINO COUNTY COURT EVALUATION REPORT – Mr. Alton Chow and Mr. Jay Smith

A) Mr. Alton Chow and Mr. Jay Smith presented a review of the results of the court facilities survey and inventory in San Bernardino based upon the evaluation report.

VI. TOUR OF SAN BERNADINO COUNTY COURT FACILITIES – Ms. Tressa Kentner and Ms. Wendy Sellnow

A) Ms. Tressa Kentner and Ms. Wendy Sellnow of the Superior Court of San Bernardino County led the task force on a tour of the Juvenile Court, Juvenile Trailer, and the Central Courthouse, all located in the City of San Bernardino.

VII. REVIEW OF THE PHASE 4 REPORT – Mr. Jay Smith

A) Mr. Jay Smith reviewed the Phase 4 report draft that was included in the task force binder.

B) Task force members had the following comments regarding the report:

1) Mr. Freeman suggested that when the narrative on Phase 4 is carried forward to the 2nd Interim Report it be made clear that the proposed improvements to the existing facilities are not “gold plated”.

2) Justice Kremer agreed and indicated that far from being gold plated, the recommended improvements may be conservative.

3) Mr. Freeman asked Mr. Smith how the Phase 4 report would be formatted. Mr. Smith replied that the report would be printed double-sided, with the narrative for a table appearing on the back of the previous page such that the narrative and associated table could be viewed at the same time.

4) Mr. Janssen noted that on page 44 of the draft, it is indicated that the total area for current needs under the Maximum Reuse option is about 12.5 million sq. ft. and under the Reduced Reuse/Increased New (Construction) option is about 14.0 million sq. ft. resulting in an increase over existing space of 2.5 to 4.0 million sq. ft.

5) Mr. Abel expressed his view that a key issue in understanding the increase in area for the court facilities is on page 37 of the draft where it is stated that the average usable area per existing courtroom is 4,700 sq. ft. rather than the 8,500 to 10,000 sq. ft. per courtroom generated by the model space program in the Facilities Guidelines. He noted that a combination of renovation and new construction to the Facilities Guidelines creates the increased areas noted by Mr. Janssen. More specifically, if, hypothetically, existing court facilities were reconstructed from scratch in accordance with the Facilities Guidelines, the result would be roughly 20 million sq. ft. of facilities. He noted that estimates Mr. Janssen cited on page 44 of the draft are not far off from splitting the difference between what exists now and the hypothetical case of rebuilding all facilities.

6) Justice Kremer suggested that the 2nd Interim Report include a simple table illustrating the comparison Mr. Abel outlined.

7) Mr. Courtney noted that it has been his experience that application of space standards usually results in larger spaces than are seen in existing facilities.

8) Judge Wick suggested that the task force consider how best to educate the staff of the legislature on the meaning of the various estimates of area required for court facilities.

9) Mr. Janssen commented that there is a need for charts or graphs to explain the data on a higher level than is provided in the tables in the draft Phase 4 report.

10) Mr. Abel moved that relative to the Probable Capital Budget Needs on page 48, the task force adopt the 50% parking demand estimates as its recommendation and retain the 0% and 100% parking demand estimates as alternates included for information only. The task force passed the motion with 10 members in favor and Judge Nail opposed.

11) Justice Kremer noted the sense of the task force that the report was on the right track and that the staff and consultants should continue to develop the report as outlined, taking into consideration the comments of task force members.

VIII. REVIEW OF PHASE 5 ISSUES – Ms. Tracy Barrow, Mr. Jay Smith, and Mr. Robert Lloyd

A) Ms. Tracy Barrow, Mr. Jay Smith, and Mr. Robert Lloyd presented the review of Phase 5 Implementation Plan issues provided below.

B) Phase 5 Implementation Plan

1) Outline of Presentation

- a) Responsibility Recommendation
- b) Costs of Ownership
- c) Revenue
- d) Transition
- e) State Management

2) Responsibility Recommendation

a) Key Concepts

- 1) Ultimate goal is state responsibility for court facilities.
- 2) Judicial Council is governing body.
- 3) Transfer of ownership to be fiscally neutral.
- 4) Negotiations between counties and state will be required to work out details in accordance with principles.
- 5) Equity is shared in proportion to occupancy.

b) Recommendation – State assume full responsibility for court facilities

- 1) As a separate branch of government the court should have the authority, responsibility, and financial capacity for all functions related to its operations, staff, and facilities.
- 2) Only the state can guarantee uniformity of access to all court facilities in California.
- 3) The state, being solely responsible for creating new judgeships, drives the need for all court facilities.

c) Responsibility

- 1) State shall ultimately be fully responsible for all court facilities, including providing facilities for current and future judgeships.

- 2) Court facilities for new judgeships and court employees (associated with those positions authorized after July 1, 1996) shall continue to rest with the state.
- 3) Responsibility for providing and maintaining court facilities shall remain with each county until facilities are transferred from the county to the state.
- 4) Responsibilities of parties sharing mixed-use buildings shall be established by agreement.
- 5) The committee has been working toward this responsibility recommendation without the associated costs of ownership.
- 6) The costs of ownership are now available for review.
- 7) The committee will then examine if the cost impact has any effect on their recommendation.

3) Costs of Ownership

a) Existing Facilities – Inventory and costs

| | <u>Owned</u> | <u>Leased</u> | <u>Total</u> |
|--------------------------------------|--------------|---------------|--------------|
| CGSF* (mil.) | 9.1 | 1.0 | 10.1 |
| Annual Support (O&M) Costs (\$ mil.) | | | \$93.7 |
| Annual Lease Costs (\$ mil.) | | | \$25.6 |

* Court Component Gross Square Feet

b) Existing Facilities – Support (O & M) Costs Detail

| <u>Expense Item</u> | <u>Annual \$/CGSF</u> | <u>Annual (\$ mil.)</u> |
|----------------------|---------------------------|-----------------------------|
| Maintenance & Repair | \$ 5.81 | \$58.8 |
| Utilities | \$ 1.70 | \$17.2 |
| Insurance | \$ 0.29 | \$ 2.9 |
| Mgmt & Prof. Admin | \$ 1.46* | \$14.8 |
| Total | \$ 9.26 | \$93.7 |

*BOMA (adjusted from \$/rentable sq. ft. to \$/usable sq. ft.)

c) Capital Facilities Need – Capital Investment

| | <u>CGSF (mil.)</u> | <u>Funding Need (\$ mil.)</u> | <u>Over # Years</u> | <u>Cap. Funding Need/Year (\$ mil.)</u> |
|-------------------------------------|------------------------|---------------------------------------|-------------------------|---|
| Current Need* (existing and new) | 12.5 | \$2,721 | 10 | \$272 |
| Future Need | 5.9 | \$2,212 | 20 | \$111 |
| TOTAL | 18.4 | \$4,933 | | \$383 |

* Maximum Re-Use Option w/ 100% structured parking (Phase 4 report); capital \$ have been reduced by the estimated FF&E amount because it is already an obligation of the state.

d) Typical Capital Outlays and Needs

| <u>INSTITUTION</u> | <u>Approx. Gross SF (mil.)</u> | <u>Typical Annual Appropriation (\$ mil.)</u> | <u>Annual Capital Need (\$ mil.)</u> |
|-----------------------|--|---|--|
| DGS | 11.5 | \$128 | - |
| Univ. of CA | 52.0 | \$193 | \$618 |
| CA State Univ. | 33.0 | \$193 | \$359 |
| Community Colleges | 50.8 | - | \$526 |
| Courts - Current Need | 12.3* | \$0 | \$272 |
| Courts - Future Need | | \$0 | \$111 |

*Rentable sq. ft.(vs. Gross sq. ft.)

e) Capital Facilities Needs – Annual Impact on Support Costs

| | <u>CGSF (mil.)</u> | <u>Over # Years</u> | <u>Added / Year CGSF (mil.)</u> | <u>Support Costs (\$ mil.)</u> |
|---------------------------------|------------------------|-------------------------|---|------------------------------------|
| Current Need* (net increase) | 2.4 | 10 | 0.239 | \$2.2 |
| Future Need | <u>5.9</u> | 20 | 0.296 | \$2.7 |
| TOTAL | 8.3 | | | |

* Maximum Re-Use Option w/100% structured parking (Phase 4 report)

f) Capital Facilities Need – Fiscal Impact (\$ mil.)

| | <u>Funding Need</u> | <u>Over # Years</u> | <u>Capital Funding Need/Year</u> | <u>Support Costs Added Each Year</u> |
|---------------|-------------------------|-------------------------|--|--|
| Current Need* | \$2,721 | 10 | \$272 | \$2.2 |
| Future Need | <u>\$2,212</u> | 20 | \$111 | \$2.7 |
| TOTAL | \$4,933 | | | |

* Maximum Re-Use Option w/100% structured parking (Phase 4 report)

g) Cost Model Parameters

| | <u>Over # of Yrs.</u> | <u>Begin. Year</u> | <u>Ramp-Up</u> |
|--------------|---------------------------|------------------------|----------------|
| Current Need | 10 | Year 1 | 2 years |
| Future Need | 20 | Year 5 | n/a |

4) Revenue

a) Funding Sources - Current

1) Funding Sources for O&M support costs:

- a) County General Fund
- b) State Support Budget (Rule 810 allowable)

2) Funding sources for capital asset development:

- a) Courthouse Construction Fund
- b) Criminal Justice Construction Fund
- c) Civil Filing Fees
- d) General Fund

b) Fiscal Neutrality

- 1) The responsibility for court facilities should transfer to the state without any fiscal gain or loss to either the counties or the state.
- 2) If title transfers it shall do so without payment for capitalized value of building and associated land. Appraisals shall not be required as a condition of transfer.
- 3) Existing non-Rule 810 facility operations and maintenance costs shall continue to be funded by each county through a maintenance of effort (MOE) agreement with the state.
- 4) The state shall not hold the counties liable for deferred maintenance that existed at the time responsibility for facilities is transferred and for which no funds were committed to address the maintenance.
- 5) The MOE will be determined based on a calculation of the average of the most recent five fiscal years escalated to the effective date of transfer.

a) Maintenance of Effort

| <u>EXPENSE ITEM</u> | <u>MOE Basis</u> |
|----------------------|--|
| Support Costs: | |
| Maintenance & Repair | 5 year avg* |
| Utilities | 5 year avg usage x current rate* |
| Insurance | final year of 5 year period |
| Mgmt & Prof. Admin | n/a |
| Lease Payments | per lease, frozen in final yr. at cost |

*Escalated to the effective date of transfer

b) MOE for Existing Facilities (\$ mil.)

| <u>Cost Category</u> | <u>Current Annual Costs</u> | <u>Maintenance of Effort</u> |
|---------------------------|-----------------------------|------------------------------|
| Support (O&M) Costs: | | |
| Maintenance & Repair | \$58.8 | (\$58.8) |
| Utilities | \$17.2 | (\$17.2) |
| Insurance | \$2.9 | (\$ 2.9) |
| Mgmt & Prof. Admin | \$14.8 | n/a |
| Total Support (O&M) Costs | \$93.7 | (\$79.0) |
| Lease Payments* | \$25.6 | (25.6) |

*MOE for lease payments will be adjusted per the terms of the lease.

- 6) Responsibility for existing debt on facilities shall remain with each county until the debt is retired, either directly or by transferring the revenue stream and debt to the state.
- 7) Courthouse Construction fees will transfer from each county to the state, less any funds obligated to debt service. Should the debt transfer to the state, the corollary debt service stream shall also transfer to the state.

8) In perpetuity, 75% of Courthouse Construction funds collected will be allocated to the court in the county where the funds were collected.

c) Future Funding from Fees

| | <u>Annual (\$ mil.)</u> |
|------------------------------------|-------------------------|
| Courthouse Construction Fund | (\$57.0) |
| less: Existing Debt on CCF | \$34.0 |
| Criminal Justice Construction Fund | 0.0 |
| Civil Filing Fees** | <u>(\$ 3.3)</u> |
| TOTAL (base)* | (\$26.3) |

* Fees are projected to increase in proportion to increase in judgeships, ~1.61%/yr. and existing debt declines over time.

** Collected in Riverside, San Bernardino, and San Francisco counties only.

d) Cost & Funding Model – Facilities Support Funding Requirement (\$ mil.)

| | <u>Year 5</u> | <u>Year 10</u> | <u>Year 15</u> | <u>Year 20</u> |
|--------------------------------------|-----------------|-----------------|-----------------|-----------------|
| CGSF (mil.) | 11.1 | 13.8 | 15.8 | 17.2 |
| Facilities Support Costs | \$103.1 | \$127.9 | \$146.0 | \$159.7 |
| MOE: Support costs funding | <u>(\$79.0)</u> | <u>(\$79.0)</u> | <u>(\$79.0)</u> | <u>(\$79.0)</u> |
| <i>Net Support Costs bef. leases</i> | \$24.2 | \$ 48.9 | \$67.0 | \$80.7 |
| Lease Payments | \$17.9 | \$5.1 | \$0 | \$ 0 |
| MOE: Lease Pmts funding | <u>(\$25.6)</u> | <u>(\$25.6)</u> | <u>(\$25.6)</u> | <u>(\$25.6)</u> |
| <i>Net Lease costs</i> | <u>(\$7.7)</u> | <u>(\$20.5)</u> | <u>(\$25.6)</u> | <u>(\$25.6)</u> |
| <i>Net Support Funding Reqmt</i> | \$16.5 | \$28.5 | \$41.5 | \$55.1 |

e) Cost & Funding Model – Capital Fulfillment Funding Requirement (\$ mil.)

| | <u>Year 5</u> | <u>Year 10</u> | <u>Year 15</u> | <u>Year 20</u> |
|----------------------------------|---------------|----------------|----------------|----------------|
| CGSF (mil.) | 11.1 | 13.8 | 15.8 | 17.2 |
| Capital Fulfillment | \$382.7 | \$382.7 | \$110.6 | \$110.6 |
| Capital Funding Sources | <u>(31.4)</u> | <u>(37.9)</u> | <u>(46.1)</u> | <u>(69.2)</u> |
| <i>Net Capital Funding Reqmt</i> | \$351.3 | \$344.8 | \$64.5 | \$41.4 |

f) Cost & Funding Model – Support & Capital Funding Requirement (\$ mil.)

| | <u>Year 5</u> | <u>Year 10</u> | <u>Year 15</u> | <u>Year 20</u> |
|----------------------------------|----------------|----------------|----------------|----------------|
| CGSF (mil.) | 11.1 | 13.8 | 15.8 | 17.2 |
| <i>Net Support Funding Reqmt</i> | 16.5 | 28.5 | 41.5 | 55.1 |
| <i>Net Capital Funding Reqmt</i> | <u>\$351.3</u> | <u>\$344.8</u> | <u>\$64.5</u> | <u>\$41.4</u> |
| <i>Net Total Funding Reqmt</i> | \$367.8 | \$373.3 | \$106.0 | \$96.5 |

g) Possible Funding Sources

| | <u>Incremental Revenues</u> |
|---|---------------------------------|
| New Taxes | 0 |
| Apply Civil Filing Fees Statewide | \$21.7 mil. |
| Increase in CCF (per \$1 increase) | \$22.8 mil. |
| Set uniform CCF fee at \$3.00 statewide | \$20.5 mil. |
| Other court fees? | |
| General Fund (county or state) | |

h) Range of Responsibility Options

- 1) Full state ownership
 - a) Immediate transfer
 - b) Gradual transfer
- 2) Shared state/county responsibility
- 3) Continued full county responsibility
 - a) Existing law
 - b) New governance procedures

5) Transition

a) Transfer Principles

- 1) It is critical to expedite the transfer of responsibility for court facilities to the state.
- 2) All counties shall transfer the responsibility for court facilities to the state.
- 3) The Judicial Council shall represent the state in negotiations with the counties.
- 4) Negotiations shall conclude with a MOU.
- 5) The MOU will specify the parties' rights and obligations relative to the transferred property.
- 6) The MOU shall spell out agreements regarding occupancy and use of space within mixed-use buildings.
- 7) The MOU will identify a date to transfer facilities.
- 8) Upon transfer the Judicial Council shall have the ongoing responsibility for providing court facilities per the MOU.
- 9) Historically significant facilities may or may not transfer. (Historic means registered or eligible for inclusion on the state's historic register.)
- 10) If historically significant facilities are not transferred they must be made available for court use, or alternate court facilities may be provided by the county with the agreement of the court.
- 11) The state may reject a court facility only if:
 - a) A significant threat to life, health, or safety exists including seismically hazardous conditions comprising either:
 - 1) An "imminent risk"
 - 2) "Extensive but not imminent risk" or
 - 3) "Substantial risk" or
 - b) Functional deficiencies exist, which in their totality are significant.

b) Maintaining the Flow of Projects

1) Recommend urgency legislation to provide an incentive program to encourage continued county capital investment in court facilities.

- a) Subject to enactment of transfer legislation.
- b) Reimburses only county general fund expenditures.
- c) AOC and DOF must pre-approve projects.
- d) Effective from the date of urgency legislation to transfer of responsibility.
- e) Does not apply to projects committed prior to January 1, 2001.

6) State Management

- a) The Judicial Council shall represent the state in the construction, acquisition, and management of all court facilities.
- b) The Judicial Council shall be responsible for court facilities and will comply with all state laws and regulations governing the state's capital outlay and support budgets.
- c) Capital outlay projects included in the Governor's budget will be executed under oversight of the Public Works Board or other administrative body established by law.
- d) A permanent organization to support the court facilities responsibility will need to be established.
- e) A detailed organizational plan and resource allocation should be developed by a working group comprised of DOF, AOC, DGS, & local courts.
- f) The long-term organizational capacity will be built simultaneously with the carrying out of transitional tasks.
- g) A transition staff will be required to facilitate the smooth and timely transfer of facilities from the counties to the state.
- h) Staffing the permanent organization should be slightly ahead of the transfer of the facilities.
- i) The implementation committee recommends that the transfer take place over a three-year period.
- j) Key responsibilities – Transition staff
 - 1) Recruit/train
 - 2) Pre-negotiation activities:
 - a) Establish policies/procedures & schedules
 - b) Establish negotiation teams at each county and court
 - c) Seismic review
 - 3) Negotiate vendor agreements
 - 4) Negotiate and draft MOU agreements with counties
 - 5) Post-negotiation activities
 - a) Documentation & legal agreements
 - b) Inspection, inventory, acceptance, & transfer
- k) Key responsibilities – Permanent organization
 - 1) Planning
 - a) Develop statewide and system-wide master and facility plans
 - b) Standards & guidelines
 - c) Funding
 - 2) Facility acquisition
 - a) Real estate
 - b) Programming, design, construction, & project management
 - c) Leasing
 - 3) Operations and Maintenance
 - a) Facilities Management

- 4) Administration
 - a) Financial planning and budgeting
 - b) Department systems (payroll, facilities accounting)
 - c) Establish/maintain operating policies & procedures
 - d) Hire, train, and develop staff
- l) Continuum of decision-making
 - 1) Decentralized local court
 - a) O & M decisions
 - b) Facility leasing
 - c) Needs assessment
 - d) Siting
 - e) Minor capital improvements
 - 2) Shared decision-making
 - a) Hiring consultants
 - b) Architectural program review
 - c) Design reviews
 - 3) Centralized state level
 - a) Capital program management
 - b) Allocation of capital funds
 - c) Facility management
 - d) Standards compliance

m) Permanent Staffing & Costs

| Mgmt & Prof. Admin. | Annual Cost/ CGSF | Total SF (mil.) | Total (\$ mil.) | ~# of Admin. Staff | ~SF/ Admin. Staff | \$/Staff w/o ovhd(c) |
|---------------------------|-------------------------|-----------------------|--------------------|--------------------------|-------------------------|----------------------------|
| DGS | | 20 (a) | | 228 | 90,000 | |
| State | \$1.46(b) | 10.1 | 14.8 | 114 | 90,000 | \$65,000 |

(a) DGS's SF and other agencies' SF that receive DGS services.

(b) Estimated using BOMA

(c) Assumption: 50% overhead, 50% salaries (\$14.8 mil./2 = \$7.4 mil. In salaries)

C) Task members had the following comments on the Phase 5 outline and took action as noted.

- 1) Justice Kremer noted that in item 1) under b) Recommendation – State assumes full responsibility for court facilities (on page 6 of this meeting report), “the court” should be replaced with “the Judicial Branch”.
- 2) Justice Kremer inquired as to whether the responsibility referred to in item 3) under c) Responsibility (on page 7 of this meeting report) is expected to be transferred building by building or on a county-wide basis. Mr. Lloyd responded that he expected this to vary from county to county.
- 3) Mr. Abel suggested the substitution of “responsibility” for “ownership” in items 5) and 6) under c) Responsibility (on page 7 of this meeting report).
- 4) Mr. Courtney suggested that the current need shown in c) Capital Facilities Needs – Capital Investment (on page 7 of this meeting report) not be reduced by the estimated FF&E costs as described in the footnote, but rather these costs (approximately 3%) should be included.
- 5) Mr. Abel noted that in g) Cost Model Parameters (on page 8 of this meeting report) the use of a beginning year of Year 5 for the 20-year future need forecast results in an extra five years that was not considered in the planning process.
- 6) Mr. Abel noted that not including management and professional administration costs in the proposed MOE shown in b) MOE for Existing Facilities (on page 9 of this meeting report) violated the principle of fiscal neutrality. Justice Kremer voiced his view that these costs should be included

in the MOE as legitimate facilities-related costs. Mr. Abel moved that these costs be included at a level to be determined in the MOE. The motion passed unanimously.

7) In regard to item 7) under b) Fiscal Neutrality (on page 9 of this meeting report) Mr. Janssen suggested that existing Courthouse Construction fee balances also transfer to the state. Mr. Abel moved that these balances be split 75% - 25% between the state and the county. There was no second to the motion.

8) Mr. Janssen noted that the \$34 million existing debt figure used in the table in c) Future Funding from Fees (on page 10 of this meeting report) should be checked since in his view it appears to be too low.

9) Mr. Courtney questioned whether the assumption that lease payments reduce to zero in year 15 and 20 in the table under d) Cost and Funding Model – Facilities Support Funding Requirement (on page 10 of this meeting report) is reasonable. Justice Kremer suggested that it is realistic to expect that the courts will still have some leased space at that time, although it may be a small amount, and the table should reflect this expectation.

10) In connection with the table under g) Possible Funding Sources (on page 11 of this meeting report) a motion was made that the task force recommend legislation to effect the following changes in court fees:

- a) authorizing a uniform \$50 surcharge on civil filing fees, similar to those currently authorized for Riverside, San Francisco, and San Bernardino Counties, in all 58 counties, and
- b) setting the amount collected on criminal fines, penalties, and forfeitures and deposited into the Courthouse Construction Fund at \$3.00 for all 58 counties without changing the amount counties deposit in other authorized funds.

The motion passed with Mr. Janssen and Supervisor Freeman opposed. Mr. Janssen noted his view that new user fees should not be proposed when the state currently has a multi-billion dollar budget surplus.

11) After reviewing the trial courts' facility funding needs, the task force revalidated its recommendation that the responsibility for court facilities transfer to the state. Members agreed to present a single recommendation of full and expeditious transfer of responsibility.

12) Judge Wick recommended that in item c) under b) Maintaining the Flow of Projects and in item e) under 6) State Management (both on page 12 of this meeting report) "AOC" should be replaced with "the Judicial Council".

13) Mr. Abel noted that the transfer referred to in item i) (on page 12 of this meeting report) should be indicated as being completed within three years. Ms. Campos suggested adding that the transfer should proceed expeditiously.

14) Mr. Abel asked whether staffing location was addressed in the table under m) Permanent Staffing & Costs (on page 13 of this meeting report). Ms. Barrow responded that location was not considered. Justice Kremer noted that the costs reported in the table are more rightly considered a full disclosure of costs associated with transfer of facilities to the state than a recommendation of the task force.

15) Mr. Abel asked Mr. Janssen whether there are other topics that the Finance Committee has considered which have not come before the task force. Mr. Janssen replied that an issue of potential double counting of certain costs in the MOU was still under review by the committee.

IX. REVIEW OF PHASE 5 REPORT OUTLINE – Mr. Jay Smith and Mr. Robert Lloyd

A) Mr. Jay Smith and Mr. Robert Lloyd reviewed the following outline of the Phase 5 Report.

B) Outline of Phase 5 Report:

I. INTRODUCTION

- 1) Report overview

- 2) Trial Court funding history
- 3) AB 233 legislative mandate
- II. RESPONSIBILITY FOR TRIAL COURT FACILITIES**
 - 1) Recommendation for state responsibility
 - a) Reasons
 - 2) Principles underlying the recommendation to transfer court facility responsibility from the counties to the state
 - a) Fiscal neutrality
 - b) Ownership equity
 - c) Continuity of planned projects
 - d) Continuing local participation
 - e) Unique facilities
 - f) Flexibility for Judicial Council management of court capital assets
- III. FUNDING**
 - 1) Current facility inventory
 - a) Operations & maintenance (including administration)
 - 2) Current facility need
 - a) Forecasted capital need (from phase 4)
 - b) Operations & maintenance (including administration)
 - 3) Future facility need
 - a) Forecasted capital need (from phase 4)
 - b) Operations & maintenance (including administration)
 - 4) Total annual investment based upon planning options
 - a) Operations & maintenance (including administration)
 - b) Capital need
 - 5) Existing funding sources
 - a) Operations & maintenance (including administration)
 - (1) County general fund
 - (2) State court operations (rule 810 allowable)
 - b) Capital projects
 - (1) County general fund
 - (2) Courthouse Construction Fund
 - (3) Criminal Justice Construction Fund
 - (4) Civil filing fee surcharge
 - c) Debt service
 - 6) Changes that may mitigate facility costs (conceptual discussion – details of Mitigation Working Group’s Report will be reflected in the Task Force’s Second Interim Report)
 - 7) Funding recommendations
 - a) Facilities operations & maintenance MOE
 - b) Courthouse construction fund
 - c) Civil filing fees
 - d) State General Fund
 - (1) State capital outlay budget
 - (2) State support budget
 - (a) Organizational costs
- IV. TRANSITION**
 - 1) Long-term
 - a) Responsibilities
 - (1) Judicial Council
 - (2) Local court
 - (3) Shared Judicial Council & local court
 - b) Organizational recommendations
 - c) Budget process recommendations
 - (1) Major capital outlay
 - (2) Minor projects

- (3) Operations & maintenance
- 2) Short-term
 - a) Organizational responsibilities
 - (1) Judicial Council
 - (2) Local court
 - (3) County
 - b) Implementation steps
 - (1) Negotiation principles and guidelines
 - (a) Transferring responsibility
 - (b) Acceptance of facility by the state
 - (c) Historical facilities
 - (d) Space utilization
 - (e) Mixed-tenant buildings
 - (f) Projects in development
 - (g) Facility sale or transfer
 - (2) Negotiation process
 - (a) Procedures
 - (b) Maintenance of Effort (MOE) agreement
 - (c) Memorandum of Understanding (MOU)
 - (d) Title & support documents
 - (3) Negotiation outcomes
 - (a) Title held by state
 - (b) Title held by county
 - (c) Mixed use building with shared equity
 - (d) Leased (Private landlord owns and manages building)
 - (e) Debt encumbered buildings
 - c) Transition schedule

V. Appendices

- 1) Other State Court Facility Systems
 - a) Super-dependent
 - b) Dependent
 - c) Inter-dependent
 - d) Independent
- 2) California Facility Systems
 - a) Appellate Courts
 - b) Board of Corrections
 - c) California Community Colleges
 - d) California State University
- 3) County survey of facility operations and maintenance costs
 - a) Survey forms
 - b) Tabulated results by county
- 4) Facility management costs
 - a) Department of General Services, Real Estate Services Division
 - b) Building Owners and Management Association
 - c) IFMA
- 5) Annual Cost & Funding Model (Spreadsheet)

C) Task force members had the following comment regarding the outline:

- 1) Task force members asked that item III.6 be removed from the Phase 5 report because the Space Mitigation Working Group's work was done under the direction of the task force not the Finance and Implementation Committee. The task force members felt that mitigation issues are best addressed in the task force's interim report. The task force approved the outline with this change.

X. CLOSING REMARKS – Justice Daniel Kremer

- A) Justice Kremer noted that he will write to the Governor, Legislature and Judicial Council regarding the extension of the task force's schedule for the 2nd Interim Report and the Final Report.
- B) Justice Kremer adjourned the meeting at 11:00 a.m.